

**PROPOSED REGULATION OF THE
BOARD OF PSYCHOLOGICAL EXAMINERS**

LCB FILE NO. R122-211

**The following document is the initial draft regulation proposed
by the agency submitted on 12/08/2021**

**PROPOSED REGULATION OF THE
BOARD OF PSYCHOLOGICAL EXAMINERS**

LCB File No.

AUTHORITY: §§1-, NRS 641

A REGULATION relating to; ...

Legislative Counsel's Digest:

Section 1. Chapter 641 of NAC is hereby amended by removing thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. NAC 641.003 is hereby repealed:

[**NAC 641.003 "Applied behavior analysis" defined.** ([NRS 641.100](#))

"Applied behavior analysis" has the meaning ascribed to it in [NRS 689A.0435](#).

(Added to NAC by Bd. of Psychological Exam'rs by R209-09, eff. 10-15-2010)]

Sec. 3. NAC 641.008 is hereby repealed:

[**NAC 641.008 "Licensed assistant behavior analyst" defined.** ([NRS 641.100](#)) "Licensed assistant behavior analyst" has the meaning ascribed to it in [NRS 689A.0435](#).

(Added to NAC by Bd. of Psychological Exam'rs by R209-09, eff. 10-15-2010)]

Sec. 4. NAC 641.085 is hereby repealed:

[**NAC 641.0085** "Licensed behavior analyst" defined. ([NRS 641.100](#))

"Licensed behavior analyst" has the meaning ascribed to it in [NRS 689A.0435](#).

(Added to NAC by Bd. of Psychological Exam'rs by R209-09, eff. 10-15-2010)]

Sec. 5. NAC 641.019 is hereby amended to read as follows:

NAC 641.019 Fees. ([NRS 641.100](#), [641.110](#), [641.228](#))

1. The Board will charge and collect the following fees:

For an application for licensure.....	\$100
For the state examination for licensure administered by the Board pursuant to NAC 641.112 or 641.113	Actual costs
By the Board	
In addition to the \$100	
For the issuance of an initial license.....	25
For the biennial renewal or reinstatement of a license as a psychologist.....	500
[For the biennial renewal or reinstatement of a license as a licensed behavior analyst.....]	[400]
[For the biennial renewal or reinstatement of a license as a licensed assistant behavior analyst.....]	[275]

For the registration of a firm, partnership or corporation.....	300
For the placement of a license on inactive status.....	100
For the biennial renewal of a license on inactive status.....	100
For the restoration to active status of a license as a psychologist on inactive status if the restoration occurs during the first year of the biennium in which the license was issued or renewed.....	400
For the restoration to active status of a license as a psychologist on inactive status if the restoration occurs during the second year of the biennium in which the license was issued or renewed.....	150
[For the restoration to active status of a license as a licensed behavior analyst on inactive status if the restoration occurs during the first year of the biennium in which the license was issued or renewed.....	[300
For the restoration to active status of a license as a licensed behavior analyst on inactive status if the restoration occurs during the second year of the biennium in which the license was issued or renewed.....	100

For the restoration to active status of a license as a licensed assistant behavior analyst on inactive status if the restoration occurs during the first year of the biennium in which the license was issued or renewed.....	175
For the restoration to active status of a license as a licensed assistant behavior analyst on inactive status if the restoration occurs during the second year of the biennium in which the license was issued or renewed]	40]
For the registration of a nonresident consultant.....	100
For reproduction and mailing of material for an application.....	25
For a dishonored check.....	15
For a change of name on a license.....	
.....	25
For a duplicate license.....	25
[For copies of the provisions of NRS relating to the practice of psychology and applied behavior analysis and the rules and regulations adopted by the Board.....]	[25]
For a letter of good standing.....	15
For the review and approval of a course or program of continuing education.....	25

2. The Board will annually determine the actual costs to the Board for the state examination administered by the Board pursuant to [NAC 641.112](#) or [641.113](#) for purposes of determining the fee charged and collected pursuant to subsection 1.

(Added to NAC by Bd. of Psychological Exam'rs, eff. 7-7-82; A 8-24-90; 7-11-94; 12-28-95; R153-97, 12-19-97; R078-99, 3-13-2000; R090-01, 2-7-2002; R077-02, 7-25-2002; R131-09, 1-28-2010; R209-09, 10-15-2010; R127-14, 6-28-2016) — (Substituted in revision for NAC 641.135)

Sec. 6. NAC 641.029 is hereby repealed:

[**NAC 641.029 Issuance of license to behavior analyst; provisional licenses.** ([NRS 641.100](#), [641.110](#), [641.160](#), [641.170](#))

1. The Board will issue a license as a licensed behavior analyst to an applicant who:

- (a) Meets the requirements of subsection 2 of [NRS 641.170](#);
- (b) Has been certified as a behavior analyst by the Behavior Analyst Certification Board, Inc., or its successor organization;
- (c) Has not been convicted of a felony;
- (d) Has not been subject to disciplinary action as a behavior analyst in another jurisdiction;
- (e) Does not have any outstanding complaints or charges pending against him or her as a behavior analyst in another jurisdiction;
- (f) Has not previously been denied licensure by the Board;

(g) Has passed the state examination administered by the Board pursuant to [NAC 641.113](#);

(h) Submits to the Board the appropriate application and fees and three letters of professional reference that attest without reservation to the professional competence, moral character and current fitness to practice of the applicant; and

(i) Complies with subsection 1 of [NRS 641.160](#) by submitting:

(1) A complete set of the applicant's fingerprints to the Board with written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation; or

(2) Verification to the Board that the applicant's fingerprints were forwarded to the Central Repository by the law enforcement agency or other authorized entity taking the fingerprints.

2. The Board may require an applicant to appear before the Board to demonstrate the applicant's:

(a) Moral character;

(b) Current fitness to practice as a licensed behavior analyst; and

(c) Intent to practice as a licensed behavior analyst in a manner consistent with the applicant's education, training and experience.

3. The Board may issue a provisional license to an applicant who has completed all the requirements for licensure pursuant to subsection 1 other than successful completion of the written examination required by paragraph (f) of subsection 2 of [NRS](#)

[641.170](#). A provisional license is valid for not more than 1 year and may not be renewed.

4. The Board will, in addition to issuing a license to an applicant who meets the requirements of this section, issue to the applicant a copy of the license in the form of a card which is of a size to be carried in a wallet.

(Added to NAC by Bd. of Psychological Exam'rs by R209-09, eff. 10-15-2010)]

Sec. 7. NAC 641.031 is hereby repealed:

[**NAC 641.031 Issuance of license to assistant behavior analyst; provisional licenses.** ([NRS 641.100](#), [641.110](#), [641.160](#), [641.170](#))

1. The Board will issue a license as a licensed assistant behavior analyst to an applicant who:

- (a) Meets the requirements of subsection 3 of [NRS 641.170](#);
- (b) Has been certified as an assistant behavior analyst by the Behavior Analyst Certification Board, Inc., or its successor organization;
- (c) Has not previously been convicted of a felony;
- (d) Has not been subject to disciplinary action as an assistant behavior analyst in another jurisdiction;
- (e) Does not have any outstanding complaints or charges pending against him or her as an assistant behavior analyst in another jurisdiction;
- (f) Has not previously been denied licensure by the Board;
- (g) Has passed the state examination administered by the Board pursuant to [NAC 641.113](#);

(h) Submits to the Board the appropriate application and fees and three letters of professional reference that attest without reservation to the professional competence, moral character and current fitness to practice of the applicant; and

(i) Complies with subsection 1 of [NRS 641.160](#) by submitting:

(1) A complete set of the applicant's fingerprints to the Board with written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation; or

(2) Verification to the Board that the applicant's fingerprints were forwarded to the Central Repository by the law enforcement agency or other authorized entity taking the fingerprints.

2. The Board may require an applicant to appear before the Board to demonstrate the applicant's:

(a) Moral character;

(b) Current fitness to practice as a licensed assistant behavior analyst; and

(c) Intent to practice as a licensed assistant behavior analyst in a manner consistent with the applicant's education, training and experience.

3. The Board may issue a provisional license to an applicant who has completed all the requirements for licensure pursuant to subsection 1 other than successful completion of the written examination required by paragraph (f) of subsection 3 of [NRS 641.170](#). A provisional license is valid for not more than 1 year and may not be renewed.

4. The Board will, in addition to issuing a license to an applicant who meets the requirements of this section, issue to the applicant a copy of the license in the form of a card which is of a size to be carried in a wallet.

(Added to NAC by Bd. of Psychological Exam'rs by R209-09, eff. 10-15-2010)]

Sec. 8. NAC 641.050 is hereby amended to read as follows:

NAC 641.050 Education: Adoption of list of accredited programs; accredited educational institutions. ([NRS 641.100](#), [641.110](#), [641.170](#))

1. For the purposes of paragraph (d) of subsection 1 of [NRS 641.170](#), the Board adopts the current list of programs holding accreditation status from the American Psychological Association. This current list of programs may be obtained, free of charge, from the American Psychological Association, at the Internet address **<http://www.apa.org/ed/accreditation>**.

[2. For the purposes of paragraph (d) of subsection 2 of [NRS 641.170](#), the Board adopts the current list of programs holding accreditation status from the Association for Behavior Analysis International. This list is available at the Internet address **<http://www.abainternational.org/BA/education/Education.asp>**.]

3]2. For the purposes of subsections 1, 2 and 3 of [NRS 641.170](#), the Board considers the following to be accredited educational institutions:

(a) In the United States, all institutions which are regionally accredited by regulatory bodies approved by the Council for Higher Education Accreditation and the United States Department of Education;

(b) In Canada, all institutions holding membership in the Association of Universities and Colleges of Canada; or

(c) In any other country, all institutions accredited by the respective official organization having such authority.

[Bd. of Psychological Exam'rs, § 641.040, eff. 12-14-78] — (NAC A 7-7-82; 8-3-88; 1-24-94; 12-28-95; R117-08, 12-17-2008; R209-09, 10-15-2010)

Sec. 9. NAC 641.063 is hereby repealed:

[NAC 641.063 Educational requirements for behavior analysts and assistant behavior analysts: Submission of proof that unaccredited program is equivalent to accredited program. ([NRS 641.100](#), [641.170](#))

1. An applicant for licensure as a licensed behavior analyst or a licensed assistant behavior analyst who has completed a training program not accredited by the Board must establish to the satisfaction of the Board that the program is equivalent to a program accredited by the Association for Behavior Analysis International or its successor organization.

2. The applicant must present to the Board transcripts, a description of the training program, letters from the directors of the departments of the institution where the program is conducted or other documents deemed suitable by the Board showing that the program substantially complies with the standards of the Association for Behavior Analysis International or its successor organization, including, without limitation, proof that the program requires at least as many hours covering specific

subjects as required for accreditation by the Association for Behavior Analysis International or its successor organization.

(Added to NAC by Bd. of Psychological Exam'rs by R209-09, eff. 10-15-2010)]

Sec. 10. NAC 641.083 is hereby repealed:

[**NAC 641.083 Supervision of licensed assistant behavior analysts and autism behavior interventionists.** ([NRS 641.100](#), [641.110](#), [641.395](#))

1. A licensed assistant behavior analyst must be supervised by a psychologist or a licensed behavior analyst during at least 5 percent of the hours he or she works each month.

2. A psychologist, a licensed behavior analyst or a licensed assistant behavior analyst who supervises an autism behavior interventionist must supervise the autism behavior interventionist during at least 10 percent of the hours the autism behavior interventionist works each month.

3. The supervision required by subsections 1 and 2 must include, without limitation:

(a) At least 1 hour each month of one-on-one supervision; and

(b) At least 4 hours each month of additional direct supervision, which may include, without limitation:

(1) Videoconferencing, except that this must not constitute more than one-half of the time supervised each month; and

(2) Group meetings of not more than 10 persons, including each licensed assistant behavior analyst or autism behavior interventionist who is being supervised by the supervisor.

(Added to NAC by Bd. of Psychological Exam'rs by R209-09, eff. 10-15-2010; A by R127-14, 6-28-2016)]

Sec. 11. NAC 641.113 is hereby repealed:

[**NAC 641.113 State examination of applicants for licensure as licensed behavior analyst or licensed assistant behavior analyst: Content; reexamination; fee; prohibited acts.** ([NRS 641.100](#), [641.110](#), [641.170](#), 641.172)

1. The Board will administer a state examination to each applicant for a license as a licensed behavior analyst or a licensed assistant behavior analyst.
2. The state examination will consist of questions addressing the practice of applied behavior analysis, including, without limitation, federal and state laws, ethical principles and codes of professional conduct relevant to the practice of applied behavior analysis in this State. At least 30 days before the state examination is administered, the Board will furnish a description of the content to be covered in the examination to each applicant.
3. An applicant who fails the state examination:
 - (a) Once or twice may retake the state examination.
 - (b) Three times may not retake the state examination unless the applicant requests permission and obtains approval from the Board to retake the state examination for a fourth time. The applicant must submit to the Board a written request to retake the

state examination and a written plan explaining the steps the applicant will take to pass the state examination. The Board will approve the request to retake the state examination if the Board determines that the written plan submitted by the applicant is likely to result in the applicant passing the state examination.

(c) Four or more times may not retake the state examination except as otherwise provided in this paragraph, and his or her application for licensure pursuant to [NRS 641.160](#) is deemed denied. A person whose application is deemed denied pursuant to this paragraph may, not earlier than 18 months after the date on which he or she is notified by the Board that he or she failed that state examination for the immediately preceding time, request permission in writing from the Board to reapply for licensure and retake the state examination. The Board will, if good cause is shown, approve the request.

4. The fee for the state examination must be paid before the examination is administered. A fee must be paid each time the applicant takes the state examination.

5. An applicant shall not:

(a) Remove any notes taken during the state examination;

(b) Record the state examination by electronic or other means; or

(c) Engage in any other conduct that results in the disclosure of the contents of the state examination.

(Added to NAC by Bd. of Psychological Exam'rs by R209-09, eff. 10-15-2010; A by R127-14, 6-28-2016)]

Sec. 12. NAC 641.132 is hereby amended to read as follows:

NAC 641.132 Renewal of license. ([NRS 641.100](#), [641.110](#), [641.220](#), [641.232](#))

1. To renew his or her license, a psychologist[, licensed behavior analyst or a licensed assistant behavior analyst] must submit to the Board an application for renewal, the required fees and the form for the biennial report of continuing education required pursuant to subsection 2. The licensee shall retain evidence of the completion of the continuing education required by [NAC 641.136](#) or [641.1363](#), as applicable, for at least 5 years after the completion of that continuing education. Evidence of completion of continuing education includes, without limitation, a letter signed by the instructor of the course or program or the agent of the sponsoring agency or organization, and a certificate of completion approved by the Board pursuant to [NAC 641.138](#). Upon the request of the Board, the licensee must provide evidence of completion of the continuing education.

2. The Board will mail to each licensee, before the expiration of his or her license, a form for the biennial report of continuing education. Each applicant for renewal must sign the form certifying that:

(a) He or she has completed the continuing education required by [NAC 641.136](#) or [641.1363](#), as applicable; and

(b) The evidence of completion of continuing education required pursuant to subsection 1 is true and accurate.

3. If a licensee misrepresents the completion of continuing education, he or she will be subject to disciplinary action, including, without limitation, suspension, revocation or nonrenewal of his or her license. A licensee whose license has been

suspended or not renewed must complete the continuing education required by [NAC 641.136](#) or [641.1363](#), as applicable, before the Board will consider whether to reinstate his or her license.

4. If a licensee does not satisfy the continuing education requirement, his or her license will not be renewed and he or she will be subject to disciplinary action. The Board may grant a licensee a 60-day extension if the licensee submits to the Board, on or before December 1 immediately preceding the expiration of his or her license, a written request for an extension which includes a compelling explanation for his or her inability to complete the continuing education requirement during the immediately preceding 2 years.

(Added to NAC by Bd. of Psychological Exam'rs, eff. 12-28-95; A by R090-01, 2-7-2002; R209-09, 10-15-2010)

Sec. 13. NAC 641.133 is hereby amended to read as follows:

NAC 641.133 Placement of license on inactive status; renewal or restoration to active status. ([NRS 641.100](#), [641.110](#), [641.160](#), [641.170](#))

1. Upon written request to the Board and payment of the fee prescribed by the Board, a psychologist [, licensed behavior analyst or licensed assistant behavior analyst] may have his or her license placed on inactive status.

2. A person whose license is placed on inactive status shall not engage in the practice of psychology [or applied behavior analysis, as applicable,] during the period in which the license is on inactive status.

3. A person who wishes to renew a license that is placed on inactive status must submit to the Board:

- (a) An application for the renewal of the license; and
- (b) The fee for the biennial renewal of a license on inactive status.

4. A person whose license is placed on inactive status may apply to the Board to have the license restored to active status. The Board will restore the license to active status upon:

- (a) The submission of an application for the restoration of the license;
- (b) The payment of the appropriate fee as set forth in [NAC 641.019](#) for the restoration to active status of a license on inactive status;
- (c) The submission of proof of completion of the requirements for continuing education for the 2 years immediately preceding the date of the application;
- (d) If the applicant has engaged in the practice of psychology [or applied behavior analysis, as applicable,] in another jurisdiction during the period his or her license was on inactive status, the submission of proof that he or she is in good standing and that there are no disciplinary proceedings pending against him or her in that jurisdiction;
- (e) Submission of any other proof the Board may require to determine whether the applicant is qualified and competent to engage in the practice of psychology [or applied behavior analysis, as applicable]; and
- (f) If the Board considers it necessary, the successful completion of the national examination or the state examination administered by the Board pursuant to [NAC 641.112](#) or [641.113](#), as applicable.

(Added to NAC by Bd. of Psychological Exam'rs by R078-99, eff. 3-13-2000; A by R090-01, 2-7-2002; R131-09, 1-28-2010; R209-09, 10-15-2010)

Sec. 14. NAC 641.1363 is hereby repealed:

[**NAC 641.1363 Continuing education: Requirements for renewal of license as a licensed behavior analyst or licensed assistant behavior analyst; courses and programs.** ([NRS 641.100](#), [641.110](#), [641.220](#))

1. To renew his or her license, a licensed behavior analyst or licensed assistant behavior analyst must certify to the Board that during the 2 years immediately preceding the date he or she submits an application for renewal, the applicant has completed 30 hours of continuing education that is approved by the Board. At least 6 hours must include instruction in scientific and professional ethics and standards, and common areas of professional misconduct. At least 2 hours must include instruction in evidence-based suicide prevention and awareness. Not more than 15 hours may be obtained from an approved distance education course.

2. A licensed behavior analyst or licensed assistant behavior analyst may not receive continuing education credit for a workshop, seminar, class or course in which he or she is the instructor.

3. Except as otherwise provided in subsection 4, the continuing education required pursuant to this section may include, without limitation:

(a) A workshop, seminar, class or distance education course in psychology, applied behavior analysis or a closely related discipline which maintains an attendance roster and which is:

(1) Conducted under the auspices of an accredited college or university offering undergraduate- or graduate-level instruction; or

(2) Certified or recognized by a state, regional, national or international accrediting agency, including, without limitation:

(I) The American Association for Marriage and Family Therapy;

(II) The American Counseling Association;

(III) The American Medical Association;

(IV) The American Psychiatric Association;

(V) The American Psychological Association;

(VI) The Association for Behavior Analysis International;

(VII) The Behavior Analyst Certification Board, Inc.;

(VIII) The International Congress of Psychology; and

(IX) The National Association of Social Workers; or

(b) A workshop, seminar, class or distance education course in psychology, applied behavior analysis or a closely related discipline which is approved by the Board.

4. Before a licensed behavior analyst or a licensed assistant behavior analyst may receive credit for continuing education for a course in scientific and professional ethics and standards, and common areas of professional misconduct or a course in evidence-based suicide prevention and awareness, he or she must submit information concerning the course to the Board for approval of the course, unless the Board has previously approved the course. The Board will make available at its office a list of courses and programs that are currently approved by the Board.

(Added to NAC by Bd. of Psychological Exam'rs by R209-09, eff. 10-15-2010; A by R038-16, 12-21-2016)]

Sec. 15. NAC 641.1503 is hereby amended to read as follows:

NAC 641.1503 Incomplete application; failure to take national examination; reapplication. ([NRS 641.100](#), [641.110](#), [641.170](#), 641.172)

1. An application for licensure as a psychologist shall be deemed withdrawn and all fees for the application are forfeited if:

(a) The application is not completed as described in [NRS 641.170](#) within 2 years after the date on which the Board first received the application materials; or

(b) The applicant has not taken the national examination required pursuant to [NRS 641.180](#) within 2 years after the date on which the Board first received the application materials.

[2. An application for licensure as a licensed behavior analyst or a licensed assistant behavior analyst shall be deemed withdrawn and all fees for the application are forfeited if the application is not completed as described in [NRS 641.170](#) within 2 years after the date on which the Board first received the application.

3] 2. An application for registration as a psychological assistant shall be deemed withdrawn if the application is not completed within 2 years after the date on which the Board first received the application materials.

4. If an application is deemed withdrawn pursuant to this section, the applicant may reapply for such licensure or registration and must pay any application fees in effect at the time of the reapplication.

(Added to NAC by Bd. of Psychological Exam'rs by R117-08, eff. 12-17-2008; A by R209-09, eff. 10-15-2010; R127-14, 6-28-2016)

Sec. 16. NAC 641.200 is hereby amended to read as follows:

NAC 641.200 Applicability. ([NRS 641.100](#), [641.232](#))

1. The provisions of [NAC 641.200](#) to [641.255](#), inclusive:

(a) Apply to the conduct of any licensee or any applicant for licensure pursuant to this chapter and [chapter 641](#) of NRS, including conduct during any period of education, training or employment required for licensure.

(b) Constitute the standards of conduct which a psychologist [, **licensed behavior analyst or licensed assistant behavior analyst**] shall follow in the provision of services.

2. A violation of the provisions of [NAC 641.200](#) to [641.255](#), inclusive, constitutes unprofessional conduct and is a ground for disciplinary action or the denial of an application for an initial license or the renewal of a license.

(Added to NAC by Bd. of Psychological Exam'rs, eff. 8-24-90; A 12-28-95; R090-01, 2-7-2002; R209-09, 10-15-2010; R127-14, 6-28-2016)

Sec. 17. NAC 641.204 is hereby amended to read as follows:

NAC 641.204 Determination of organization as patient or client. ([NRS 641.100](#), [641.232](#)) An organization is a patient or client of a psychologist [, **licensed behavior analyst or licensed assistant behavior analyst**] if the professional contract between the organization and the psychologist [, **licensed behavior analyst or licensed assistant behavior analyst**] requires the psychologist [, **licensed behavior analyst or**

licensed assistant behavior analyst] to provide services primarily to the organization rather than to the persons in the organization.

(Added to NAC by Bd. of Psychological Exam'rs, eff. 12-28-95; A by R209-09, 10-15-2010; R127-14, 6-28-2016)

Sec. 18. NAC 641.206 is hereby amended to read as follows:

NAC 641.206 Authority of parent or legal guardian to make decisions concerning treatment; issues for which child or protected person is patient or client. ([NRS 641.100](#), [641.232](#)) If a psychologist [, licensed behavior analyst or licensed assistant behavior analyst] is treating a child or protected person, the parent or legal guardian of the child or protected person is the patient or client for the purpose of making decisions concerning treatment. The child or protected person who is receiving services from the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] is also the patient or client for:

1. Issues directly affecting the physical or emotional safety of the child or protected person, including, without limitation, sexual relationships or other exploitive dual relationships.
2. Issues which the parent or legal guardian has specifically agreed, before the child or protected person receives professional services, must be reserved to the child or protected person, including, without limitation, confidential communications between the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] and the child or protected person during the course of the professional relationship.

(Added to NAC by Bd. of Psychological Exam'rs, eff. 12-28-95; A by R153-97, 12-19-97; R209-09, 10-15-2010; R127-14, 6-28-2016)

Sec. 19. NAC 641.209 is hereby repealed:

[**NAC 641.209 Scope of practice for licensed behavior analyst or licensed assistant behavior analyst: Competency required; use of new method, service or technique; referral of certain clients; basis for rendering formal professional opinion.** ([NRS 641.100](#), [641.232](#), [641.395](#)) A licensed behavior analyst or licensed assistant behavior analyst:

1. Shall limit his or her practice and supervision to the areas in which he or she has acquired competence through education, training and experience.
2. Shall not, except in an emergency in which the life or health of a person is in danger, practice or offer to practice beyond the scope of his or her license, or perform any professional service which the licensed behavior analyst or licensed assistant behavior analyst knows, or has reason to know, that he or she is not competent to perform.
3. Shall not engage in conduct in the practice of applied behavior analysis which evidences moral unfitness to practice the profession.
4. Shall maintain competence in the areas in which he or she practices through continuing education, consultation or other methods, in conformance with current standards of scientific and professional knowledge.
5. Shall use every reasonable effort to ensure that all services provided to clients are adequate in degree and scope, and conform to the highest professional standards.

6. Shall, if acquiring experience in a method, service or technique for treatment or evaluation that is either new to the licensed behavior analyst or licensed assistant behavior analyst or new to the profession:

(a) Engage in continuing consultation with other licensed behavior analysts or licensed assistant behavior analysts or relevant professionals;

(b) Seek appropriate education and training in the new method, service or technique for treatment or evaluation; and

(c) Inform clients of the innovative nature and known risks of the new method, service or technique for treatment or evaluation to provide the clients with the freedom of choice concerning applied behavior analysis services.

7. Shall not claim or use any secret or special method, service or technique for treatment or evaluation not previously disclosed to the Board.

8. Shall not, except for the purpose of research, use any method, service or technique for treatment or evaluation for which there is no adequate basis in research.

9. If a referral is clearly in the best interest of the client or upon request of a client, shall refer or recommend referral of a client to:

(a) Another professional; or

(b) Appropriate technical or administrative resources.

10. Shall not render a formal professional opinion about a person who is not a client without having had direct and substantial professional contact with the person or without having made a formal assessment of the person.

(Added to NAC by Bd. of Psychological Exam'rs by R209-09, eff. 10-15-2010)]

Sec. 20. NAC 641.213 is hereby repealed:

[**NAC 641.213 Display of license by licensed behavior analyst or licensed assistant behavior analyst; response to communications from Board and availability of records relating to inquiries and complaints; notification of change of address or telephone number; professional fees; supervision of certain persons.** ([NRS 641.100](#), [641.232](#))

1. A licensed behavior analyst or licensed assistant behavior analyst:

(a) Shall display his or her license in a conspicuous place on the premises of his or her office or place of employment. A licensed behavior analyst or licensed assistant behavior analyst practicing outside of an office must have his or her wallet card, obtained pursuant to [NAC 641.029](#) or [641.031](#) available for production upon request.

(b) Shall respond within 30 days after receiving communication from the Board and shall make available any relevant records with respect to an inquiry or complaint about his or her professional conduct.

(c) Shall notify the Board in writing of a change of address or telephone number within 30 days after the change.

(d) Shall not mislead or withhold from a client, prospective client or other person who will be responsible for payment of the services of the licensed behavior analyst or licensed assistant behavior analyst information concerning the fee for professional services.

(e) Shall not directly or indirectly offer, give, solicit, receive or agree to receive any fee or other consideration for the referral of a client.

2. A licensed behavior analyst or licensed assistant behavior analyst who is a supervisor:

(a) Shall exercise appropriate supervision over any person who is authorized to practice applied behavior analysis under his or her supervision.

(b) Shall not exploit a person who is authorized to practice applied behavior analysis under his or her supervision.

(Added to NAC by Bd. of Psychological Exam'rs by R209-09, eff. 10-15-2010; A by R127-14, 6-28-2016)]

Sec. 21. NAC 641.219 is hereby amended to read as follows:

NAC 641.219 Maintenance and availability of records. ([NRS 641.100](#), [641.232](#))

1. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall maintain a record for each patient or client that includes:

(a) The presenting problem or purpose or diagnosis;

(b) The fee arrangement, if any;

(c) The date and type of evaluation or treatment provided to the patient or client;

(d) The results of tests or other evaluations and the data from which the results were derived;

(e) A description of any consultations with other professionals regarding the patient or client and the results of such consultations; and

(f) A copy of all tests and other evaluative reports which were prepared in the course of the professional relationship.

2. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall maintain the record of each patient or client for not less than 5 years after the last date that service was rendered to the patient or client, except that the record of a patient or client who is a minor must be maintained for not less than 5 years after the last date that service was rendered or 1 year after the patient or client reaches 21 years of age, whichever is longer. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall comply with all other state and federal laws and regulations concerning the maintenance of records, including a law or regulation which requires him or her to maintain records for a longer period than required by this subsection.

3. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall comply with all state and federal laws governing a patient's or client's right to have access to his or her records.

[4. A psychologist, licensed behavior analyst or licensed assistant behavior analyst] who provides supervision of a licensed behavior analyst or licensed assistant behavior analyst shall maintain for not less than 5 years after the last date of supervision, a record of the supervisory session, including, but not limited to, information regarding the type, place and general content of the session.]

(Added to NAC by Bd. of Psychological Exam'rs, eff. 12-28-95; A by R089-03, 1-18-2005; R209-09, 10-15-2010; R127-14, 6-28-2016)

Sec. 22. NAC 641.224 is hereby amended to read as follows:

NAC 641.224 Confidential information. ([NRS 641.100](#), [641.232](#))

1. If a psychologist [, licensed behavior analyst or licensed assistant behavior analyst] provides services to an organization, information he or she obtains in the course of providing the services is confidential, including any personal information concerning a person in the organization if the information was properly obtained within the scope of his or her professional contract with the organization. Personal information concerning a person in the organization is subject to the confidential control of the organization unless the person who disclosed the information had a reasonable expectation that the information was disclosed pursuant to a separate professional relationship with the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] and would not be disclosed to the organization.

2. During the course of a professional relationship with a patient or client and after the relationship is terminated [, a psychologist, licensed behavior analyst or licensed assistant behavior analyst] shall protect all confidential information obtained in the course of his or her practice, teaching or research, or in the performance of any other services related to his or her profession. Except as otherwise provided in this section, a psychologist [, licensed behavior analyst or licensed assistant behavior analyst] may disclose confidential information only if he or she obtains the informed written consent of the patient or client.

3. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] may disclose confidential information without the informed written consent of a patient or client if the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] believes that disclosure of the information is necessary to protect

against a clear and substantial risk of imminent serious harm by the patient or client to the patient or client or another person and:

(a) The disclosure is limited to such persons and information as are consistent with the standards of the profession of psychology [or applied behavior analysis] in addressing such problems.

(b) If the patient or client is an organization, the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] has made a reasonable but unsuccessful attempt to correct the problems within the organization.

4. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] may disclose confidential information without the informed written consent of a patient or client if:

(a) A member of the judiciary, or a court magistrate or administrator to whom authority has been lawfully delegated, orders the disclosure; or

(b) Disclosure is required by a state or federal law or regulation, including a law or regulation that requires a psychologist [, licensed behavior analyst or licensed assistant behavior analyst] to report the abuse of a child or elderly person.

5. If a psychologist [, licensed behavior analyst or licensed assistant behavior analyst] renders services to more than one person, including services rendered to an organization, family, couple, group, or a child and a parent, the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall, before he or she begins to render the services, explain to each person the relevant limitations on confidentiality during the course of the professional relationship. If appropriate, the psychologist [,

licensed behavior analyst or licensed assistant behavior analyst] shall grant to each person an opportunity to discuss and accept the limitations on confidentiality that will apply.

6. If a patient or client is a child or has a legal guardian, a psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall, before he or she renders services, inform the patient or client to the extent that the patient or client can understand, of any legal limitations on the confidentiality of communications with the psychologist.

7. With the written consent of a patient, a psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall provide in a timely manner to another responsible professional who is treating the patient or client any information which is important for the professional to know in making decisions concerning the ongoing diagnosis and treatment of the patient or client.

8. If a psychologist [, licensed behavior analyst or licensed assistant behavior analyst] uses the case history of a patient or client in his or her teaching, research or published reports, he or she shall exercise reasonable care to ensure that all confidential information is appropriately disguised to prevent the identification of the patient or client.

9. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall:

(a) Store and dispose of any written, electronic or other records in a manner which ensures the confidentiality of the content of the records;

(b) Limit access to the records of his or her patients or clients to protect the confidentiality of the information contained in the records;

(c) Ensure that all persons working under his or her authority comply with the requirements of this section to protect the confidentiality of each patient or client; and

(d) Obtain the informed written consent of a patient or client before the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] electronically records or allows another person to observe a diagnostic interview or therapeutic session with the patient or client.

10. As used in this section, "confidential information" means information disclosed by a patient or client to a psychologist [, licensed behavior analyst or licensed assistant behavior analyst] during the course of a professional relationship, or otherwise obtained by the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] during the course of the relationship, if there is a reasonable expectation that because of the relationship between the patient or client and the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] or the circumstances under which the information was obtained, the information will not be disclosed by the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] without the informed written consent of the patient or client.

(Added to NAC by Bd. of Psychological Exam'rs, eff. 12-28-95; A by R089-03, 1-18-2005; R209-09, 10-15-2010; R127-14, 6-28-2016)

Sec. 23. NAC 641.229 is hereby amended to read as follows:

NAC 641.229 Impairment of licensee; limitation on contact with current or former patient or client. ([NRS 641.100](#), [641.232](#))

1. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall not begin or continue a professional relationship with a patient or client if the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] is impaired, or has received notification from the Board that the Board reasonably suspects him or her to be impaired, because of mental, emotional, physiological, pharmacological or substance abuse problems. If such a problem develops during the course of a professional relationship, the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall:

- (a) Terminate the relationship;
- (b) Notify the patient or client in writing of the termination; and
- (c) Assist the patient or client in obtaining services from another professional.

2. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall not begin or continue a professional relationship with a patient or client if the objectivity or competency of the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] is impaired, or if the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] has received notification from the Board that the Board reasonably suspects his or her objectivity or competency to be impaired, because the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] has or had a family, social, sexual, emotional, financial, supervisory,

political, administrative or legal relationship with the patient or client or a person associated with or related to the patient or client.

3. If a psychologist [, licensed behavior analyst or licensed assistant behavior analyst] has rendered professional services to a person, the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall not:

(a) Engage in any verbal or physical behavior with the person which is sexually seductive, demeaning or harassing;

(b) Engage in sexual contact with the person; or

(c) Enter into a financial or other potentially exploitive relationship with the person, for at least 2 years after the termination of the professional relationship, or for an indefinite time if the person is clearly vulnerable to exploitive influence by the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] because of an emotional or cognitive disorder.

(Added to NAC by Bd. of Psychological Exam'rs, eff. 12-28-95; A by R117-08, 12-17-2008; R209-09, 10-15-2010; R127-14, 6-28-2016)

Sec. 24. NAC 641.234 is hereby amended to read as follows:

NAC 641.234 Assessment procedures: Communication of results to patient or client; limitations on use. ([NRS 641.100](#), [641.232](#))

1. If a psychologist [or licensed behavior analyst] communicates the results of an assessment procedure to a patient or client or to the legal guardian, parents or agent of a patient or client, he or she shall:

(a) Use appropriate interpretive aids to explain the results in a manner which is understandable; and

(b) Include in the explanation any deficiencies of the assessment procedure and factors which may affect the validity, reliability or other interpretation of the results.

2. A psychologist [or licensed behavior analyst] shall not reproduce or describe in any popular publications, lectures or public presentations, psychological tests or other assessment procedures in a manner which may invalidate the tests or procedures.

3. If a psychologist [or licensed behavior analyst] offers to other professionals an assessment procedure or automated interpretation service, he or she shall:

(a) Provide a manual or other written material which fully describes the development of the procedure or service, the rationale therefor, evidence of the validity and reliability thereof, and characteristics of the group of persons which the procedure or service uses as a norm;

(b) Explicitly state the purpose and application for which the procedure or service is recommended;

(c) Identify special requirements which are necessary to administer and interpret the procedure or service properly; and

(d) Ensure that advertisements for the procedure or service provide an accurate description of the procedure or service.

(Added to NAC by Bd. of Psychological Exam'rs, eff. 12-28-95; A by R209-09, 10-15-2010)

Sec. 25. NAC 641.239 is hereby amended to read as follows:

NAC 641.239 Misrepresentation of professional qualifications, affiliations, services, products or psychological findings. ([NRS 641.100](#), [641.232](#))

1. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall not directly or by implication misrepresent:
 - (a) His or her professional qualifications, including the education he or she has received, the experience he or she has acquired or the areas of his or her professional competence.
 - (b) His or her affiliations or the purposes or characteristics of the institutions and associations with which he or she is associated.
2. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall correct any other person who the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] knows has misrepresented the professional qualifications or affiliations of the psychologist [, licensed behavior analyst or licensed assistant behavior analyst].
3. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall not include false or misleading information in his or her public statements concerning the professional services he or she offers.
4. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall not guarantee that satisfaction or a cure will result from the performance of his or her professional services.

5. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall not associate with or permit his or her name to be associated with any service or product in a manner which misrepresents:

- (a) The service or product;
- (b) The degree of his or her responsibility for the service or product; or
- (c) The nature of his or her association with the service or product.

6. A psychologist shall not distort, misuse or suppress any psychological finding, and shall attempt to prevent, using all reasonable means, the distortion, misuse or suppression of any psychological finding by any institution of which he or she is an employee.

(Added to NAC by Bd. of Psychological Exam'rs, eff. 12-28-95; A by R209-09, 10-15-2010; R127-14, 6-28-2016)

Sec. 26. NAC 641.241 is hereby amended to read as follows:

NAC 641.241 Aiding in unlawful practice of psychology [or applied behavior analysis]; improper delegation of professional responsibilities; reporting of violation and exception. ([NRS 641.100](#), [641.232](#))

1. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall not aid or abet another person in misrepresenting the person's professional credentials or illegally engaging in the practice of psychology [or applied behavior analysis].

2. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall not delegate any of his or her professional responsibilities to a person he

or she knows, or has reason to know, is not qualified because of a lack of adequate education, training or experience.

3. If a psychologist [, licensed behavior analyst or licensed assistant behavior analyst] has substantial reason to believe that another person has violated any provision of this chapter or [chapter 641](#) of NRS, he or she shall inform the Board in writing of the violation, except that if the psychologist [, licensed behavior analyst or licensed assistant behavior analyst] has knowledge of the violation because of his or her professional relationship with a patient or client, he or she may report the violation only if he or she has the informed written consent of the patient or client. The provisions of [NAC 641.200](#) to [641.255](#), inclusive, do not relieve a psychologist [, licensed behavior analyst or licensed assistant behavior analyst] of the duty to file any report otherwise required by state or federal law or regulation.

(Added to NAC by Bd. of Psychological Exam'rs, eff. 12-28-95; A by R209-09, 10-15-2010; R127-14, 6-28-2016)

Sec. 27. NAC 641.245 is hereby amended to read as follows:

NAC 641.245 Violation of law or regulation; use of fraud, misrepresentation or deception; improper filing of reports; violation of probation; failure to pay child support or to comply with certain warrants or subpoenas relating to determination of paternity or child support. ([NRS 641.100](#), [641.232](#))

1. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall not violate any law or regulation which governs the practice of psychology [or applied behavior analysis, as applicable].

2. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall not use fraud, misrepresentation or deception:

(a) To obtain a license or pass an examination required for licensure;

(b) To assist another person in obtaining a license or passing an examination required for licensure;

(c) In billing a patient or client or other person who is responsible for payment;

(d) In providing his or her professional services;

(e) In reporting the results of any evaluation or service related to the practice of psychology [or applied behavior analysis, as applicable]; or

(f) To conduct any other activity related to the practice of psychology [or applied behavior analysis, as applicable].

3. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall not willfully make or file any false report, fail to file any report required by law or by the Board, willfully impede or obstruct any such filing, or induce another person to engage in any act prohibited by this subsection.

4. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall not violate any condition, limitation or term of probation imposed upon him or her by the Board.

5. A psychologist [, licensed behavior analyst or licensed assistant behavior analyst] shall not:

(a) Fail to make timely payments for the support of one or more children pursuant to a court order; or

(b) Fail to comply with any warrant or subpoena relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of one or more children.

(Added to NAC by Bd. of Psychological Exam'rs, eff. 12-28-95; A by R153-97, 12-19-97; R209-09, 10-15-2010; R127-14, 6-28-2016)

Sec. 28. NAC 641.2455 is hereby repealed:

[NAC 641.255 "Professional and Ethical Compliance Code for Behavior Analysts": Adoption by reference; controlling provisions; revision. (NRS 641.100, 641.232)

1. The provisions which set forth the guidelines for conduct for behavior analysts which are contained in the most recent version of the "Professional and Ethical Compliance Code for Behavior Analysts" provided by the Behavior Analyst Certification Board, Inc., or its successor organization, are hereby adopted by reference and incorporated herein, unless the Board gives notice that the most recent version is not suitable for this State pursuant to subsection 2, and except to the extent that those provisions conflict with the provisions of NAC 641.200 to 641.255, inclusive, in which case the provisions of NAC 641.200 to 641.255, inclusive, will control. A copy of the

publication may be obtained free of charge from the Behavior Analyst Certification Board, Inc., at the Internet address <http://bacb.com/ethics-code/>.

2. If the publication adopted by reference in subsection 1 is revised, the Board will review the revision to ensure its suitability for this State. If the Board determines that the revision is not suitable for this State, the Board will hold a public hearing to review its determination within 6 months after the date of publication of the revision and give notice of that hearing to all licensed behavior analysts and licensed assistant behavior analysts. If, after the hearing, the Board does not revise its determination, the Board will give notice within 30 days after the hearing that the revision is not suitable for this State. If the Board does not give such notice, the revision becomes part of the publication adopted by reference in subsection 1.

(Added to NAC by Bd. of Psychological Exam'rs by R209-09, eff. 10-15-2010; A by R127-14, 6-28-2016)]